

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Governmental Oversight and Accountability Committee

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BILL: SB 464

INTRODUCER: Senator Fasano

SUBJECT: Military Affairs/Leave of Absence

DATE: January 27, 2010

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	Skelton	MS	<b>Favorable</b>
2.	McKay	Wilson	GO	<b>Favorable</b>
3.			TA	
4.				
5.				
6.				

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**I. Summary:**

The bill expands from 17 days to 30 days the leave of absence authorized to attend military training for public employee members of the U. S. military Reserves and National Guard troops.

The bill also authorizes the establishment of a second Assistant Adjutant General Army position at the state's National Guard Joint Forces Headquarters.

This bill substantially amends sections 115.07 and 250.10 of the Florida Statutes.

**II. Present Situation:**

**Leaves of Absence for Training**

Current law authorizes officers and employees of the state, the counties, and the municipalities or political subdivisions of the state who are members of the military reserves or the National Guard to be granted leaves of absence for reserve or guard training for up to 17 days annually. Such leaves of absence are granted for the purpose of attending active or in-active duty training. Reserve and National Guard members are entitled to leaves of absence without loss of vacation leave, pay, time, or efficiency rating on days they are assigned to active duty or in-active duty for training, pursuant to s. 115.07, F.S.<sup>1</sup>.

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<sup>1</sup> Section 115.09, F.S., addresses leave for active military service, and s. 250.48, F.S., addresses leaves of absence for active state duty for named events, disasters, or operations.

According to Department of Military Affairs officials, current Reserve and National Guard operational training requirements in support of worldwide military operations exceed the authorized 17 days annually per member.

#### **Additional Assistant Adjutant General Army**

Florida is one of 15 states that have undergone a restructuring of its Army National Guard Enhanced Infantry Brigade. The Enhanced Infantry Brigade is composed of approximately 3,500 soldiers and, until recently, has been commanded by an officer in the rank of Brigadier General. The new organizational structure replicates the active duty Army's Infantry Brigade Combat Team and will now be commanded by an officer with the rank of Colonel.

States such as Florida have been allowed to transfer the former Infantry Brigade General Officer position to the state's National Guard Joint Forces Headquarters as an additional Assistant Adjutant General Army position. With more than 10,000 Florida Army National Guard soldiers currently serving, authorization for two Army officers serving in the grade of Brigadier General is consistent with authorizations in other states with similar forces.

### **III. Effect of Proposed Changes:**

SB 464 amends s. 115.07, F.S., to increase the amount of time granted annually to members of the Reserves and National Guard for leaves of absence as a matter of legal right from 17 to 30 days.

The bill amends s. 250.10, F.S., to authorize the Adjutant General of the Florida National Guard to appoint a federally recognized officer to a second position of Assistant Adjutant General Army. Such appointment is subject to confirmation by the Senate. The appointee must have served in the Florida Army Guard for the preceding five years and have attained the rank of colonel or higher at the time of appointment.

The bill provides an effective date of July 1, 2010.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

See discussion in the Fiscal Impact Statement, below, concerning the potential but unknown costs associated with increasing the administrative leave benefit from 17 to 30 days.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:****Leaves of Absence**

Section 115.07, F.S., only applies to officers and employees of the state, the counties, and the municipalities or political subdivisions of the state who are members of the military reserves or the National Guard. According to data furnished by the Department of Military Affairs, there are 2,131 reservists and National Guard personnel employed by various state, county, and municipal government entities. Expansion of the leave of absence benefit authorized in current law by an additional 13 days could result in a maximum reduction of employee availability by a total of 27,703 person-days. However, failure to authorize the expansion would force military members who exceed 17 days of annual training to use personal vacation time or take leave without pay in order to perform their required military duties.

The cost to government sector entities is unknown due to unknown variables such as how many members will actually exceed 17 days of annual training, differing employee salary and benefits costs, and existing governmental entity contingency policy covering workloads during the absence of military members.

**Additional Assistant Adjutant General Army**

This position is federally funded and there is no additional cost to the state.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

This bill is silent with respect to which of the two Assistant Adjutant Generals will succeed to command in the absence or incapacitation of the Adjutant General. Military protocol normally dictates that the officer with the earliest date of rank is senior and thus eligible to succeed to command.

According to DMS:

State Personnel System agencies currently administer the 17-day provision on the basis of the employee's established work schedule. However, because the current statute stipulates that any officer or employee whose

working day consists of a 12-hour shift or less receives 1 working day leave of absence, and that all other shifts over 12 hours and up to 24 hours receives 2 working days leave of absence, leave administration results in an inequitable benefit for full-time and part-time employees. This is because employees, regardless of position, are paid on an hourly basis. In order for the payroll system to account for the time used by an employee for military leave, it must be posted as an hourly use. The current baseline benefit is 136 hours (8 hours x 17 days) from which employees track their military training time usage. The problem arises when employees need to use more time because they work on a flexible work schedule (i.e., a work schedule consisting of more than 8 hours per day such as four - 10 hour days which equates to 170 hours (10 hours x 17 days)). Therefore, similarly situated employees are receiving a disparate benefit, depending on their work schedule.

Increasing the military leave benefit from 17 days to 30 days would increase the administration of the leave usage from a payroll/leave system perspective. In addition, since the payroll/leave system must convert the allotted days to hours for the system to accurately track the usage of military leave, thus increasing the amount of paid leave inadvertently increases the inequity of this benefit for employees. A recommendation to correct the inequity created by stating the leave as days versus hours would be to base the leave on hours (i.e. 240 hours = 8 hours x 30 days), which would be prorated based on the position's full-time equivalency (FTE).

#### **VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)  
  
None.
- B. **Amendments:**  
  
None.